

Franchise Tax Board**ANALYSIS OF AMENDED BILL**Author: Senate Budget Comm. Analyst: Darrine Distefano Bill Number: SB 1097Related Bills: See Legislative History Telephone: 845-6458 Amended Date: July 27, 2004Attorney: Patrick Kusiak Sponsor: _____**SUBJECT:** Employer Hiring Credit/Certification Provided By Local Government**SUMMARY**

This bill would do the following:

- Allow local governments to certify employees for purposes of the enterprise zone (EZ) hiring credit;
- Authorize the Department of Housing and Community Development (DHCD) to issue emergency regulations to carry out the intent of this bill.

This bill also would make numerous technical changes to California Law that would not impact the Franchise Tax Board (FTB), including removing references to Technology, Trade, and Commerce Agency. These items will not be discussed in this analysis.

SUMMARY OF AMENDMENTS

The July 27, 2004, amendments added the EZ hiring credit and DHCD provisions discussed in this analysis.

This is the department's first analysis of this bill.

PURPOSE OF THE BILL

According to the author's office, the purpose of the bill is to make it easier for businesses to obtain vouchering certificates for employees who are eligible for the EZ hiring credit.

EFFECTIVE/OPERATIVE DATE

This bill is an urgency statute and would be effective and operative upon enactment.

POSITION

Pending.

Board Position:

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Department Director

Date

Gerald H. Goldberg

8/18/04

ANALYSIS

STATE LAW

Under the Government Code, existing state law allows the governing body of a city or county to apply for designation as an EZ. Using specified criteria, DHCD designates EZs from the applications received from the governing bodies. EZs are designated for 15 years (except EZs meeting certain criteria may be extended to 20 years), and DHCD is authorized to designate 42 EZs under current law (39 currently are designated).

Under the Revenue and Taxation Code, existing state law provides special income tax incentives for taxpayers conducting business activities within an EZ. These incentives include an income tax hiring credit for taxpayers operating in an EZ.

Taxpayers operating in an EZ are allowed the hiring credit for employing “qualified employees.” “Qualified employees” for EZs are defined by reference to various state and federal public assistance programs. A taxpayer located in an EZ may reduce income tax by up to 50% of wages paid to “qualified employees.” To be eligible for the hiring credit, the taxpayer is required to obtain a voucher certificate for each of its “qualified employees.” The voucher certificate is issued by a local (within the same EZ as the workplace of the employee) federal or state agency familiar with the public assistance statutes.

Currently, the California Employment Development Department, and the local entities that administer the Job Training Partnership Act and Greater Avenues of Independence Act (GAIN) have the authority to issue the voucher certificates. The voucher certificate indicates that the employee is qualified for or receiving any of the specified forms of public assistance and thus is a “qualified employee” for purposes of the hiring credit.

Taxpayers that claim the hiring credit are asked to retain a copy of the voucher certificate for each of its “qualified employees.” Upon the request of FTB, the taxpayer is required to provide the voucher certificate for purposes of verifying the hiring credit claimed by the taxpayer.

THIS BILL

This bill would expand the authority to issue voucher certificates for the EZ hiring credit to the local government administering the EZ.

This bill would authorize DHCD to develop emergency regulations that would govern the issuance of the voucher certificate by local governments.

This bill also would give DHCD the authority to assess a fee for the administration of the EZ and for each vouchering certificate. If FTB does not accept the vouchering certificate for purposes of the EZ hiring credit, DHCD would refund any fees assessed or collected.

IMPLEMENTATION CONSIDERATIONS

Until DHCD adopts regulations, it is not clear how local governments would issue voucher certificates or assess and collect fees. Further, until regulations are adopted it would not be clear how a fee would be determined to be refundable.

Implementing this bill is not expected to significantly impact the department’s programs or operations.

LEGISLATIVE HISTORY

AB 2895 (Stat. 2000, Ch. 864) amended the local area military base revitalization area (LAMBRA) and the manufacturing enhancement area (MEA) hiring credit statutes to be consistent with the existing EZ and Targeted Tax Area (TTA) statutes. Taxpayers are required to obtain a voucher for each newly hired employee, except with regards to the MEA hiring credit. No certification is required to claim the MEA hiring credit.

AB 2926 (Nakano 2003/2004) would revise and expand the qualifying process for the hiring credit in economic development areas (EDAs). AB 2926 is currently in the Senate Housing and Community Development Committee.

AB 2111 (Assembly Budget Committee, 2003/2004) is identical to this bill. AB 2111 is currently on the Senate Floor.

PROGRAM BACKGROUND

The vouchering process serves numerous functions for all parties affected, including the taxpayer, FTB, and DCHD, such as:

1. Allows DCHD to track the number of employees hired for which the hiring credit is claimed, thus facilitating evaluation of the individual program's effectiveness and ability to provide annual reports to the Legislature.
2. Provides an up-front verification process for taxpayers regarding the determination of whether a potential employee is a "qualified employee."
3. Minimizes intrusiveness into the employee's personal life and provides confidentiality for the employee since the agency that administers the public assistance program is the one that issues the voucher.
4. Allows the employer (taxpayer) to retain less documentation to support a claim that an employee is a "qualified employee."
5. Promotes consistency in application of the definition of a "qualified employee" under the public assistance statutes and the EDA statutes by requiring those most familiar with (and responsible for administering) the public assistance statutes to determine whether a potential employee is a "qualified employee."
6. Allows FTB to verify an employee's eligibility if the hiring credit is reviewed during an FTB audit examination.
7. Allows both FTB and DHCD to verify that the credit is limited to individuals and businesses that qualify for the credit as the Legislature intended.

OTHER STATES' INFORMATION

Since this bill is revising the vouchering process specifically for California EZs, a comparison to the tax laws of other states would not be meaningful for this bill.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill is not anticipated to significantly impact the amount of revenue associated with existing and future EZs.

Revenue Discussion

Data and information necessary to measure the revenue impact of allowing local governments to issue voucher certificates is not available. However, based on departmental staff, it is not anticipated this bill would significantly alter the revenue impact currently associated with the EZ hiring credit.

LEGISLATIVE STAFF CONTACT

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